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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,439	06/26/2001	Mark Landesmann	084561-0108	9934
22428	7590	05/20/2005	EXAMINER	
<b>FOLEY AND LARDNER</b> SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				LE, KHANH H
		ART UNIT		PAPER NUMBER
		3622		

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/888,439	LANDESMANN, MARK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Khanh H. Le	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 6/22/04 and 9/17/2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1, 10-13, 47-49, 51-52, 64-65, 68, 94, 100-103, 137-139, 141-142, 154-155, 158, 204, 206, 207-357 is/are pending in the application.

- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) See Continuation Sheet is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/31/2005</u> . | 6) <input type="checkbox"/> Other: _____.  |

Continuation of Disposition of Claims: Claims rejected are 1, 10-13, 47-49, 51-52, 64-65, 68, 94, 100-103, 137-139, 141-142, 154-155, 158, 204, 206, 207- 238, 246, 250, 252-290, 298, 302, 304-339, 347, 351, 353-357.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 239-245,247-249,251,291, 297,299-301,303,340-346,348-350 and 352.

## **DETAILED ACTION**

1. This Office Action is responsive to the Responses and Amendments received 6/22/04 and 9/17/2004.

2. **Previous claims status:** Pending claims were 1, 10-13, 47-49, 51-52, 64-65, 68, 94, 100-103, 137-139, 141-142, 154-155, 158, 204, 206.

The independent claims were 1, 94, 204, and 206 with 94 and 204 paralleling claim 1 in system and program formats. The dependent claims were 10-13, 47-49, 51-52, 64-65, 68, with corresponding claims 100-103, 137-139, 141-142, 154-155, 158.

3. **Present claims status:** Claims 1, 94, 204 are currently amended. New claims 207-357 are added.

Of the new claims 207, 259, and 308 are independent. Method claim 207 is independent with 208-258 as dependents. Independent claims 259 and 308 parallel independent claim 207, in computer program product and system formats respectively, with their dependent claims 260-307 and 309-356 paralleling claims 208-255 respectively.

Thus presently presented are claims 1, 10-13, 47-49, 51-52, 64-65, 68, 94, 100-103, 137-139, 141-142, 154-155, 158, 204, 206, 207-357 with claims 1, 94, 204, 206, 207, 259, and 308 as independent.

## **Restriction**

4. **In response to the restriction requirement (Response received 9/17/2004), Applicants elected to prosecute Group I. Thus presently prosecuted are claims 1, 10-13, 47-49, 51-52, 64-65, 68, 94, 100-103, 137-139, 141-142, 154-155, 158, 204, 206, 207- 238, 246, 250, 252-290, 298, 302, 304-339, 347, 351, 353-357 with claims 1, 94, 204, 206, 207, 259, and 308 as independent.**

***Claim Rejections - 35 USC § 101***

**5. Previous rejections of claims 1, 94, all their dependents (claims 10-13, 47-49, 51-52, 64-65, 68, 100-103, 137-139, 141-142, 154-155, 158) and claim 206 under this section are withdrawn.**

**Response to arguments**

**6.Affidavits:**

The Examiner has given all due consideration to the affidavits submitted in the instant case, but regrettably they remain unpersuasive to rebut the prima facie case of obviousness.

MPEP 716.01(a) requires objective evidence and proof of secondary considerations facts for the evidence to be of probative value. The affidavits do not provide such objective evidence or proof of secondary considerations facts.

Per MPEP 716.01(b) a nexus is required, between the merits of the claims and the evidence of secondary considerations. Here, the full scope or breadth of the claim language is not covered by the affidavits. The Affidavits seem to track the problem solved and arguably a preferred embodiment instead of the broad claim language.

MPEP 716.01(c) requires the evidence of secondary considerations facts to be of probative value. The affidavits do not provide such objective proof.

As to the submitted expert's opinion evidence (e.g. from Mr. Seth Godin ) praising the merits of the claimed invention, they are found to have little value due to a lack of factual support. For example, what Mr. Godin contemplates is not the legal standard for

nonobviousness (S.Godin's affidavit, p. 4, item c). Nor is the "average marketer" as described by Mr. Godin conclusively versed in computer and marketing arts as argued (S. Godin's affidavit, p. 4, item d) therefore Mr. Godin's opinion as to what that average marketer might or might not come up with in view of the cited art is unpersuasive.

MPEP 716.01(d) requires consideration in light of the full record. Regrettably, the submitted affidavits do not overcome the facts of the prima facie case.

## **7. Other arguments:**

As to the arguments on pages 50-51 and 64 that GOLDHABER does not disclose third party POP's the Examiner notes that Goldhaber's "transaction records", "historical transaction entries evidencing her purchase.." that a consumer can delete or add (col. 6 lines 50-60) are exactly those. Nothing in GOLDHABER negates the submission of third party POP's, contrary to argument. The Goldhaber's processing of a consumer profile derived from those submitted third party POP's has nothing contradictory to, or unnecessary because of, their submission, as Applicants seem to argue.

As to the argument that Goldhaber's profile preclude POP's and teaches away at page 64, full 2<sup>nd</sup> paragraph, the following shows the contrary (emphasis added):

" Another aspect of the present invention provides a two step technique for the development of an accurate consumer profile. First, a consumer is asked to pro-actively describe him or herself. This forms a "base profile." Then the consumer's actions can be monitored in this example such that a representation of the consumer's actions are "overlaid" upon the self description. This combination of self description combined with monitored actions yields highly accurate and granular consumer profile which can be used to predict consumer interests and behaviors. The system also can generate a base profile from historical data as well as self description."

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As to the argument that Goldhaber's does not disclose third party POP's because they are generated by "the system", as stated in a previous Office Action,

"GOLDHABER discloses a distributed system with many servers (col 8 l.20-39, especially l. 30-33). therefore the POP's could be interpreted as being not generated by the matching/incentives delivering system. Further, at col 7 l. 31-32, GOLDHABER discloses automatic tracking of the user previous Internet usage to complement her profile, which at least suggest *any* internet usage/transaction, i.e. not limited to the matching/incentives delivering system."

The Examiner notes that the main hurdle in claim 1 still resides in the definition of "the system". For example, the step of "receiving ... one POP... for which the payment was not carried out by the system" reads on GOLDHABER . The GOLDHABER system comprises many systems: the ad matching system matching advertisers and consumers and at least a financial system that tracks on-line purchases (POP's) from many merchants and therefrom compiles the consumer profile database. Such database is used by the "ad matching system". Thus the Goldhaber's "ad matching system" receives POP's that were derived from another (financial) system and not from itself.

As to the arguments at page 64, full 3rd paragraph, the Examiner is at a loss why Applicants argue the Specifications disclosures while the claims language is what is at issue and what is argued is not in the claims.

As to the argument at page 65; 1st full paragraph regarding Weinblatt and how the issuer of the POPs in Weinblatt has to be cooperate, it is noted that the Weinblatt teachings relied upon by the Examiner, are that WEINBLATT discloses several data collection methods for marketers who desire to collect actual purchase histories. One is via a bar code reading apparatus, (col 1 l. 56+); another is via in- store computer systems (col 2, l. 13+), a third is via a home unit wherein proofs of purchases (POP's) are scanned by the consumer. Weinblatt also discloses that people

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are interested to directly and voluntarily submit their POP's in exchange for rewards (col 4 l. 59+).

The Examiner stated earlier at page 8 Office Action dated 12/11/2003:

"As discussed above, GOLDHABER discloses , through his system, the benefit to consumers is to receive competing content/ads customized to their needs/preferences. To advertisers, use of consumer profiles allow reaching more willing customers whose attention has been secured with relevant customized ads/offers. GOLDHABER further discloses "POP's" are valuable for advertisers who have used point of sale tracking (see GOLDHABER ., col 6 l. 28-35), and GOLDHABER .'s invention includes on-line POP's (col 6 l. 50-65; col 13-20; col 7 l. 31-32).

It would have been obvious to one of ordinary skill in the art, at invention time, to add WEINBLATT's teaching of directly submitting POP's by scanning into a home unit to GOLDHABER's system of voluntary submission of profiles including POP's profiles, because the consumer would be interested in obtaining highly competitive offers based on POP's ( a kind of reward or benefit), as taught by GOLDHABER. Further, it would have been obvious to one of ordinary skill in the art at invention time to incorporate the WEINBLATT's POP's submission method into GOLDHABER's system in view of WEINBLATT's teaching that this is another and less expensive way to collect POP's which are valuable to marketers (Weinblatt, col 2 l. 13-36)."

Thus the machinery used in WEINBLATT to produce the POPs' to be scanned by the user is irrelevant. Applicants are well-aware of the ubiquity of scanners. The idea of scanning POP's as an active act of the consumer for rewards , in Weinblatt is what the Examiner relied on in the previous rejection. Once a POP is obtained from any merchant, with scanners readily available, the consumer can voluntarily submit them to a system as in Goldhaber for the motivations as stated above. No active cooperation from the merchants issuing the POP's is needed as argued.

As to the argument at page 65 full 2<sup>nd</sup> paragraph, regarding Day, it is noted Day is relied upon for Day's teachings of very differentiated customized special offers based on actual purchasing behavior information (Day, col 8 l. 1-15). Goldhaber already teaches voluntary supplying of POP's so Day wasn't needed for such teaching, and thus the potential competition of merchants in Day, contrary to argument, is irrelevant in the rejections.

**The previous rejections are thus maintained.** The new claims are addressed below.

7. As noted earlier, the combination of Goldhaber/Weinblatt/Day disclose all of the following argued features:

- 1.a transfer of transaction records or information derived from transaction records (herein after the "Proofs of purchases" or POP's) into the system from outside the system (Element #1);
2. the information comes directly from the buyer entity (element #2)
3. the information comprises "third party purchase records " ("element #3")
4. the incentive that is being offered promotes the product of a third party with a distinct business activity. ("element #4"): the "merchants" in GOLDHABER/Day are different from the POP merchants.
5. the buyer entity, which is the provider of the above mentioned transaction records, must be provided with at least one from a plurality of necessarily "contingent preferential" incentives... ("element #5"): see at least Day's abstract.
6. the incentive for the advertiser's product or service is offered to the buyer entity, "without transferring to said third party advertiser directly or indirectly any full name associated with said

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buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity." ("element #6"): Goldhaber's privacy concerns.

### **Claims Rejections. 35 USC 103**

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. **Claims 1, 10-13, 47-49, 51-52, 64, 94, 100-103, 137-139, 141-142, 154, and 204, 207-230, 232-238, 246, 250; 259-282, 284-290, 298, 302; 308-331,333-339, 347, and 351 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber, US 5855008, hereinafter Goldhaber, in view of Weinblatt, US 5515270, hereinafter Weinblatt, and further in view of Day, US 6484146, hereinafter Day.**

Goldhaber discloses:

A consumer driven system ( i.e. consumer owns the profiles : col 14 l. 56-60; col 6 l. 28-35; consumer shares these profiles as desired: col 8 l. 40-57), via trading houses (see col 19-20) , for the benefit of both consumers and advertisers ( col 4 l. 25-31).

The benefit to consumers is to receive competing content/ads customized to their needs/preferences. To advertisers, use of consumer profiles allow reaching more willing customers whose attention has been secured with relevant customized ads/offers.

GOLDHABER further discloses actual purchase histories ( or proofs of purchases, hereinafter, "POP's") are known to be valuable for advertisers: to this end advertisers have used point of sale tracking (see GOLDHABER ., col 6 l. 28-35), and GOLDHABER .'s invention includes on-line POP's (col 6 l. 50-65; col 13-20; col 7 l. 31-32).

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GOLDHABER discloses user voluntary submission of profiles in exchange of a benefit from plural competing independent providers (col 8 l. 1-18; receipt of targeted information, specialized targeted ads ( col 6 l. 28-35; col 8 l. 22-40), payments for viewing ads); complementing the profile by allowing tracking of on-line behavior including on-line transactions (POP's) (col 6 l. 50-65; col 13-20; col 7 l. 31-32) and tracking of other habits (col 6 l. 50-65) ; interactive user editing/ deletion of transaction records from the profile (col 6 l. 50-65); protection of privacy (col 7 l. 62-67; col 14 l. 137 –39); interacting with presented ads (col. 16 l. 17-20) ; rating of presented ads (col. 13 l. 50-51); matching of consumers to advertisers criteria ( col 14 l. 30-46); consumer profiles stored at their PC or in another database of the on-line system ( col 14 l. 47-54); only information matched above certain threshold set by the consumer is delivered ( col 14 l. 56-62); coupons and discount offers to induce buying (col 3 l. 30-45); internet advantages (col 3 l. 48-55); credit histories as commodities ( col 20 l. 38-55).

Thus as to claims 1, 207-228, 259-280, 308-329, GOLDHABER discloses

a) receiving from each of a plurality of buyer entities at least one respective third party purchase record said purchase record comprising data associated with the purchase of products or services wherein the receipt of the third party purchase record occurs on the initiative and with the consent of the buyer entity

(GOLDHABER discloses a consumer driven system

( i.e. consumer owns the profiles : col 14 l. 56-60) with voluntary submission of profiles in exchange of a benefit (col 8 l. 1-18; receipt of targeted information, targeted ads, payments for viewing ads; trading houses (see col 19-20)); complementing the profile by allowing tracking on-line behavior including on-line transactions (POP's) (col 6 l. 50-65; cols. 13-20; col 8 l 40-53: voluntary sharing of consumption content between private home pages and public pages with password access restrictions) ;

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**As to the “data associated with the purchase of products or services for which the payment was not carried out by the system”, arguably GOLDHABER does not specify such.**

(However GOLDHABER discloses a distributed system with many servers (col 8 l.20-39, especially l. 30-33). therefore the POP's could be interpreted as being not generated by the matching/incentives delivering system. Further, at col 7 l. 31-32, GOLDHABER discloses automatic tracking of the user previous Internet usage to complement her profile, which at least suggest *any* internet usage/transaction, i.e. not limited to the matching/incentives delivering system.

Weinblatt, discloses several data collection methods for marketers who desire to collect actual purchase histories. One is via a bar code reading apparatus, (col 1 l. 56+); another is via in- store computer systems (col 2, l. 13+), a third is via a home unit wherein proofs of purchases (POP's) are scanned by the consumer and the different purchase items categorized and used to trigger rewards (col 4 l. 59+). Weinblatt also discloses that people are interested to directly and voluntarily submit their POP's in exchange for rewards (col 4 l. 59+).

As discussed above, GOLDHABER discloses , through his system, the benefit to consumers is to receive competing content/ads customized to their needs/preferences. To advertisers, use of consumer profiles allow reaching more willing customers whose attention has been secured with relevant customized ads/offers. GOLDHABER further discloses “POP's” are valuable for advertisers who have used point of sale tracking (see GOLDHABER ., col 6 l. 28-35), and GOLDHABER .'s invention includes on-line POP's (col 6 l. 50-65; col 13-20; col 7 l. 31-32).

It would have been obvious to one of ordinary skill in the art, at invention time, to add WEINBLATT's teaching of directly submitting POP's by scanning into a home unit to GOLDHABER's system of voluntary submission of profiles including POP's profiles, because the consumer would be interested in obtaining highly competitive offers based on POP's ( a

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kind of reward or benefit), as taught by GOLDHABER. Further, it would have been obvious to one of ordinary skill in the art at invention time to incorporate the WEINBLATT's POP's submission method into GOLDHABER's system in view of WEINBLATT's teaching that this is another and less expensive way to collect POP's which are valuable to marketers (Weinblatt, col 2 l. 13-36).

b) storing information associated with said data (Goldhaber, col 6 l. 50-65; col 8 l 40-53; cols. 13-20; Fig.7 and associated text);

c) for a plurality of product or service items offered for sale,

... provided by a different third party advertiser in a plurality of third party advertisers (col 8 l. 1-18; receipt of targeted information, specialized targeted ads (Goldhaber col 6 l. 28-35 col 8 l. 22-40), and

offering said buyer entities,

based at least in part on said stored data relating to purchases made by said buyer entity with merchants other than the third party advertiser offering the incentive (see at least col 15 col 19-37: many advertisers; Further, Goldhaber discloses private profiles , including POP's , owned by the consumers , and buyers agents, sellers agents, that do not belong to a central server ( col 8 l. 30-34) seeking to match consumer interests with targeted ads therefore it is clear, in the Goldhaber context, that the POP's in the consumer profiles are from purchases not from the advertisers sending the targeted ads).

C2) at least one from among a plurality of different preferential incentives, (see at least col 6 l. 28-35; col 8 l. 22-40; col 12 l. 31-36; col 14 l. 65-col 15 l. 6 : personal agents going to look for ads or other information the consumer is interested in )

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with each incentive associated with at least one of said items and associated with at least one of said third party advertisers (see at least col 6 l. 28-35; col 8 l. 22-40).

C3) As to “ said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent” GOLDHABER does not directly disclose such.

However, Goldhaber discloses specialized targeted advertisements from each of the plurality of said different third party advertisers,( abstract, col 8 l. 35-40: highly targeted advertising; col. 6l. 28-35; col 8 l. 22-40).

Further Day discloses presenting customized preferential specialized benefits based on actual purchasing behavior information (abstract). Day teaches the desirability of knowing who buys from competitors so to provide competitive offers ( col 1 l. 50-55; col 2 l. 13-15; at col 2 l. 12). Day also discloses the desirability of using actual purchasing records, other than at the electronic point of sales, in order to achieve that relevant targeting goal ( col. 1 l. 60- col 2 l. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add Day’s teachings of very differentiated customized special offers based on actual purchasing behavior information (Day, col 8 l. 1-15) to Goldhaber’s teaching of voluntary supplying of POP’s to provide very differentiated competitive offers and better induce purchasing based on specific monitored behaviors as taught by Day.

C4) Further, Goldhaber discloses specialized targeted advertisements from each of the plurality of said different third party advertisers,(col. 6l. 28-35; col 8 l. 22-40), but does not directly disclose

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“wherein there is at least one different preferential contingent incentive each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items”

However, coupons are defined in dictionary.com as “A printed form, *as in an advertisement*, to be used .....for obtaining a discount on merchandise” i.e. the benefit is contingent on purchase of the merchandise, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add coupons to the delivered specialized targeted ads disclosed by GOLDHABER because coupons entice purchases ( GOLDHABER col 3 l. 30-40 ). Further a coupon usually requires only purchase of the item as the one condition, thus “said benefit do not include material conditions that are different from said at least one action”.

d) facilitating the offering of at least one of said preferential (see at least Goldhaber, Figs. 1, 7, and associated text) incentives to said buyer entity,

d2) without having transferred to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that said incentive is offered but has not yet been responded to by said buyer entity,(Goldhaber, protection of privacy : col 7 l. 62-67;col 14 l. 137 –39).

d3) GOLDHABER does not specifically discloses with the condition precedent for this step that said system has received from that buyer entity said at least one respective third party purchase record

However, it does disclose specialized targeted ads based on profiles which may include POP’s . GOLDHABER also discloses advertisers collecting POP’s in order to better target their ads (col 6 l. 36-40). Thus it would have been obvious to add to

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GOLDHABER 's voluntary profile submission a condition precedent that at least one POP be received b/c the profile would become more reliable with such additional historical transaction data for targeting as disclosed at col 6 l. 36-40. Goldhaber also discloses consumers desiring the targeted ads (see "interest agents", col 14 l. 65-col 15 l. 5) therefore it would have been obvious to ask them for such condition which they would be likely to submit to in order for the targeting to be improved. Furthermore, Weinblatt discloses a reward conditional on direct submission of the POP's. Thus it would have been obvious to add Weinblatt's teaching of an express condition to GOLDHABER .'s consumers desire for the benefit of highly targeted ads to benefit both consumers and advertisers as taught by GOLDHABER.

As to claim 10 and 47, Day discloses

obtaining acceptance information on whether one of the buyer entities accepted the incentive; and storing the acceptance information to the database (monitoring of redemption of offers and modifying offers based on that ( C7 l.66- c8 l 30) . It would have been obvious to one of ordinary skill in the art at the time the invention was made to add this particular feature of Day to Goldhaber is to provide better incentives to induce sales in case the consumer refuses the initial offers as taught by Day at col. 8 l. 6+.

Claim 11. Day further discloses obtaining additional information on whether the buyer entity made a follow-up purchase or a co-purchase contemporaneous with or after accepting the incentive and inputting the additional information to be stored. (monitoring of redemption of offers, and updating of profiles (Col. 14 l. 52-64, Fig 12-14; claims 15, 22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add this particular feature of Day to Goldhaber is to determine the effect of the special offers on consumer buying behaviors and adjust offers accordingly as taught by Day.

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Claim 12. Weinblatt discloses said entering step further comprises the categorization of purchases listed from a plurality of independent third parties in the purchase records based on a set of categories (C4 l. 59-67, col 13 to col 14 l. 20) and the reward being based on purchases in a certain category. Day also implicitly discloses categorization of purchases based on the POP's for targeting purposes (C4 l. 18-31). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add these features to GOLDHABER in order to further GOLDHABER .’s content/ads targeting scheme.

Claim 13. Day discloses calculating a separate score (targeting parameter) for a buyer entity in each of a plurality of categories (C4 l. 18-31) based on the amount purchased by the buyer entity in the respective category (C4 l. 17-31,“quantity”). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add these features to GOLDHABER in order to further GOLDHABER’s content/ads targeting scheme.

Claim 47. Day discloses receiving information on whether one of the buyer entities accepted the incentive (monitoring of redemption of offers and modifying offers based on that (C7 l.66- c8 l 30);

as to recalculating at least one of the scores for one of the buyer entities based on the buyer entity accepting the incentive , Day discloses at C4 l. 18-31, a calculated score based on buying in certain categories, (see claim 13). Day’s disclosure monitoring of redemption of offers and modifying offers based on that new data (C7 l.66-c8 l. 30) is interpreted as the earlier score (based e.g. on category) being recalculated so that offers may be modified based on the new data. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add these features to GOLDHABER in order to further GOLDHABER’s content/ads targeting scheme.

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Claim 48. Day discloses determining if the recalculated score qualifies said one of the buyer entities for an ongoing incentive (monitoring of redemption of offers+ modifying offers based on that , C7 l.66- c8 l 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add these features to GOLDHABER in order to further GOLDHABER's content/ads targeting scheme.

Claim 49. Day implicitly discloses recalculating the incentive determined in said incentive providing step by applying said recalculated score of said one of the buyer entities to the incentive function or algorithm (monitoring of redemption of offers+ modifying offers based on that : C7 l.66- c8 l 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add these features to GOLDHABER in order to further GOLDHABER's content/ads targeting scheme.

Claim 51 . GOLDHABER discloses the plurality of incentives are provided across a plurality of distribution channels (C21 l. 1-19).

Claim 52. GOLDHABER discloses receiving information that one of the buyer entities visited a predetermined web site (complementing the profile by allowing tracking on-line behavior including on-line transactions and viewing habits : col 6 l. 50-65; C 7 l. 28-33; col 13-20). As to recalculating one of the scores of said one of the buyer entities to increase the score based on this visit, a score is interpreted as a targeting parameter. Since GOLDHABER teaches targeting based on updated profiles, based on in part on website visited, GOLDHABER is interpreted as implicitly teaching recalculating a score based on the updated data to improve targeting.

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Claim 64. GOLDHABER discloses submitting a request to one of said buyer entities to provide a rating of a product or service only if the purchase record of the buyer entity shows a purchase of the product or service to be rated (rating of presented ads : col. 13 l. 50-51)

Apparatus Claims 94, 100-103, 137-139, 141-142, 154 which parallel method claims 1, 10-13, 47-49, 51-52, 64 are rejected on the same basis.

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Claim 204 parallels claim 1 in program product format and is similarly rejected.

As to claims 229, 255, 281, Day discloses

a incentive function (see at least col.4 lines 18-31, use of “targeting parameters” to derive an incentive implies use of an certain incentive function or relationship to link the parameter to the incentive) associated with each of a plurality of advertisers;

a budget limit for each advertiser ( see at least col. 14 lines 52-56; col. 6 lines 57-60;

receiving new POPs’ after the incentive function and the budget limit are determined (at col.7 line 66- col. 8 line 37: Day’s disclosure of monitoring of redemption of offers and modifying the offers based on the new data is interpreted as offers may be modified based on the new data.)

determining and distributing a new incentive offer based at least in part on the function, the budget limit and the new POP’s (at col.7 line 66- col. 8 line 37: Day’s disclosure of monitoring of redemption of offers and modifying the offers based on the new data is interpreted as offers may be modified based on the new data.; for distributions, see Figure 1, item 24 and associated text; col. 4 line 66+);

halting the distribution when the budget-related limit is reached (see at least col. 14 lines 52-56; col. 6 lines 57-60 “maximum limit”; when, e.g., the maximum discount is accepted, the offer is no longer distributed i.e. the distribution priority changed.)

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As to the following claims, limitations that are common to the ones discussed above are rejected on the same basis. The motivations to combine the 3 above-cited references are at least the same as discussed above. Further:

As to claims 230, 282, 331, Day discloses a user interface whereby advertisers get access to the database of potential customers and their POPs', whereby the advertisers input target parameters and incentive functions(audience, incentive-definition information and parameters) and based on which the offers determining is made (see at least col.4 lines 18-31; col. 14 lines 52-56; col. 6 lines 57-60),

As to claims 232-233, 284-285, 333-334, Day discloses monitoring follow-up purchases made after the offer of an incentive , then tender of further incentives based thereon (see at least col.4 lines 18-31; col. 14 lines 52-56; col. 6 lines 57-60),

As to claims 234, 286, 335, Official Notice is taken that it is well known to present in concrete terms the value of any offer to convince the offeree of such value. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to calculate a measure indicative of the amount of benefits to the buyer and present it and add such to the base references for the above-discussed advantage.

As to claims 235, 287, 336, Official Notice is taken that presenting offers to users of wireless devices based on their location to reach potential customers proximal to the businesses is known. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to such feature to the base references for the above-discussed advantage.

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As to claims 236, 288,337, WEINBLATT discloses manual input by the user of POP's and offering incentives based thereon .

As to claims 237-238, 289-290, 338, **GOLDHABER** discloses receiving browsing behavior and demographic information and deciding thereupon.

As to claims 246, 298, 347, Day discloses differential targeted offers meaning each offer has a different value per customer. Official Notice is taken that it is well known to prices of incentives offers have to be calculated to apprise businesses of their promotions costs. Thus, as offers are based on information stored on the user, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add calculating a price for such differentiated offers, (which would be also based on information stored on the user), to the base references, for the above-discussed advantage.

As to claim 250, 302, 351, **GOLDHABER** discloses sending information associated with the user to third party after receipt of authorization from the buyer.

9. **Claims 68 and 158 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of Weinblatt and Day and further in view of Dedrich, US 5717923, hereinafter Dedrich.**

As to claim 68, calculating a charge for providing the incentive based on both the size of the group of buyer entities resulting from the search and the scores of the buyer entities,

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GOLDHABER discloses at C5 l. 21-30, demographic routing; at C8 l. 59-61 charging advertisers; at col 14 l. 30-46:matching of consumers to advertiser's criteria.

Dedrich discloses calculating a fee based on the scores of the buyers who were provided the incentive (col 5 l. 20-30, "consumer scale"; Fig 7b , especially item 218, and associated text,).

Thus claim 68 re. charging for providing the incentive to the targeted group is rejected on this basis.

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the teachings of Dedrich to Goldhaber in order to provide a rational basis for charging advertisers.

Apparatus Claim158, which parallels method claim 68 is rejected on the same basis.

**10. Claims 206, 231, 252-254, 256-258, 304-306, 308-310, 353-355, 357-359 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of Weinblatt and Day and further in view of admitted art.**

As to claims 206, 231, 252-254, 256-258, 304-306, 308-310, 353-355, 357-359,

The features of these claims common to the claims addressed above are rejected on the same basis.

Further, technology for customers to aggregate their POP's is admittedly known as an efficient way of gathering in one place one's transaction data (specifications paragraph [0152]: "Technology for such online retrieval and scanning of data from various accounts already exists") . Expressing consent by giving out passwords and usernames for a website to use one's

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account information is taught by GOLDHABER (complementing the profile by allowing tracking on-line behavior including on-line transactions (POP's) (col 6 l. 50-65; cols. 13-20; col 8 l 40-53: sharing of consumption content between private home pages and public pages with password access or digital ID verification restrictions). Thus one would have known to add this technology and the corresponding authorizing features as another efficient way of submitting purchase histories because of the admitted efficiency of this method of gathering data.

Further, as to claims 252,304, 353, as to obtaining permission to obtain supplemental data about the user from a third party broker, receiving such (see above), and as to the incentive offered is on improved terms based in part on the additional information, Day discloses monitoring responses to offers and modifying the next offers accordingly.

Also as to claims 253, 305, 354, Official Notice is taken that it is well-known to add purchases over a period of time and reward if the purchases past a threshold (see e.g. Walker, US 6434534, discussed many times earlier in the present application as in related applications as to these particular features). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add such feature to the base references to encourage increased purchases as taught by the prior art such as Walker.

### Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Thursday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

May 13, 2005

*[Signature]*  
KHL

JAMES W. MYHRE  
PRIMARY EXAMINER